IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.4531 OF 2004

Farook Ahmed Mohd. Yusuf
and Ors. ..Petitioners
Vs.
Abdul Aziz Quasimali
Sayed and Ors. ..Respondents

....

Mr.R.S.Datar for Petitioners
Mr.P.M.Pradhan for Respondents

....

CORAM : B.H.MARLAPALLE,J.
DATE : APRIL 4,2005

P.C.:

1. Heard Mr.Datar, the learned counsel for the Petitioners and Mr.P.M.Pradhan, the learned counsel for the Respondent Nos. 2 to 5.

2. Rule. By consent, rule is taken up for final hearing forthwith.

3. The trial of RCS No.317 of 1974 has been stayed by the impugned order passed on 6.2.2000 by the learned Civil Judge J.D. at Bhiwandi below application at Exh.241 solely on the presumption that L.P.A. under Stamp No. 15441 of 1999 passed against the decision in First Appeal No. 626 of 1986 is still pending before this Court.

4. The petition has been adjourned for more than

three times and the Registry has not been able to locate the papers of the said L.P.A. It is also clear that the said L.P.A. has not come up for admission at any time and therefore, mere filing of the L.P.A. cannot be a reason to presume that the same is pending for final decision before this Court. It appears that the trial Court has been misguided. Mr.Pradhan, the learned counsel for the Respondents states that he may take appropriate steps to get the L.P.A. circulated for admission within few weeks. The fact remains that for the last about six years, it was never circulated for admission for whatsoever reasons. The impugned order is therefore, unsustainable and the same has to be quashed and set aside.

5. Hence, the petition is allowed and the impugned order dated 6.2.2000 passed below Exh.241 in R.C.S.No. 317 of 1974 is hereby quashed and set aside. The trial of R.C.S.No. 314 of 1974 is hereby expedited and it shall be completed within a period of six months from 2.5.2005. By way of an additional opportunity to the Respondents to take steps for obtaining final orders in L.P.A. under Stamp No.15441 of 1999 from this Court, the trial Court is directed not to proceed with the suit till 25.4.2005. Rule made absolute accordingly without any order as to costs.

[B.H.MARLAPALLE,J.]